



October 15, 2004

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: In the Matter of Vonage Holdings Corp. Petition for Declaratory Ruling  
Concerning an Order of the Minnesota Public Utilities Commission  
WC Docket No. 03-211

In the Matter of IP-Enabled Services  
WC Docket No. 04-36

Dear Chairman Powell:

The deliberations surrounding the policy treatment of Voice over Internet Protocol (VoIP) enabled services continue to rage throughout the public and private sectors alike. The latest salvo in the debate is in the form of recent correspondence to you and your Federal Communications Commission colleagues from certain members of the House of Representatives regarding the disposition of the Vonage petition. In this correspondence, the Commission is being asked to declare VoIP services as inherently interstate services for at least some purposes – something that to date the Congress has avoided doing legislatively. In fact, the Senate Commerce, Science and Transportation Committee amended S. 2281 earlier this summer to affirm at least in part the intrastate nature of these services. We believe that a separate decision on the Vonage petition could have serious unintended consequences for other key policies.

Today the vast majority of Americans rely upon traditional landline and wireless public switched telephone network (PSTN) service to place and receive voice calls. We understand that traffic is migrating away from the PSTN to VoIP and IP-enabled services – indeed, the companies we represent will be the leaders in bringing such services to rural America. Yet this migration will likely occur over years during which time VoIP and IP-enabled traffic will be interacting with the PSTN.

The Commission has acknowledged that multiple petitions filed by individual companies regarding IP-enabled services have enormous potential to impact the PSTN. Indeed, the Commission appropriately consolidated these petitions into a comprehensive proceeding on IP-enabled services (WC Docket No. 04-36, FCC 04-28) on March 10, 2004. Through this docket, the Commission recognized that piecemeal approaches risk unintended consequences.

Determining the appropriate jurisdictional treatment for VoIP services should not be done in a vacuum, as it will have ramifications on other important aspects of telecommunications policy, notably universal service, intercarrier compensation, E911, access for the disabled, and law enforcement.

A premature decision on jurisdictional issues could have serious consequences for a variety of key policy issues, particularly universal service and intercarrier compensation – the very mechanisms that continue to ensure affordable rates for rural consumers. It is a given that the cost of providing telecommunications services will remain higher in rural areas. This reality mandates public policies for VoIP services that will ensure rural consumers continue to receive access to advanced telecommunications and information services that are reasonably comparable to those available elsewhere in the nation. Effectuating such a result will require the Commission to take into consideration the universal service responsibilities of VoIP providers and to ensure such services fulfill their access charge responsibilities.

The complexities surrounding this issue are undeniable, and we applaud the Commission for refusing to rush to judgment on a matter that clearly requires a comprehensive and integrated solution. Contrary to the widely held belief that state actions in this venue are imminent, there is no call for immediate federal preemptive steps to be taken hastily on this subject. We strongly believe that it is prudent for the Commission to stay its course of thoroughly evaluating every facet of this complex issue prior to formulating a needed and comprehensive policy decision.

Sincerely,

David Zesiger, Executive Director – ITTA  
Michael E. Brunner, CEO – NTCA  
John N. Rose, President – OPASTCO  
Kelly Worthington, Executive Vice President

cc: The Honorable Kathleen Abernathy  
The Honorable Kevin Martin  
The Honorable Michael Copps  
The Honorable Jonathan Adelstein